

REMARKS

Upon entry of the present amendment, Claims 1-16 and 18-20 remain in the application, of which claims 1 and 12 are independent. New independent claim 21 is also being introduced by the present amendment. The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

DISCUSSION

Applicant has amended claims 1-4, 6-9, 11-14, 16 and 19-20 by the present amendment. Applicant has also canceled claim 17, and introduces new claim 21 by the present amendment.

After careful reconsideration, applicant respectfully submits that in their present form, each of claims 1-16 and 18-21 patentably distinguishes over the art of record.

Applicant therefore requests reconsideration of the rejections, and allowance of all pending claims.

Section 102 issues

Also in the above-identified Office Action, the Examiner rejected claims 1-9 and 11-20 as anticipated by Lee, U.S. patent no. 4,579,198.

The Standard for Anticipation

In the case of Motorola, Inc. v. Interdigital Technology Corp., 121 F. 3d 1461 (CAFC 1997), the Court of Appeals for the Federal Circuit stated:

“For a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art (citation omitted). ‘The (prior art) reference must describe the applicant’s claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it’ (citations omitted). Although this disclosure requirement presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art reference teachings that are not there.”

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The above-quoted passage is consistent with many previous cases of the Federal Circuit and with MPEP 2131, which reiterate the rule that **in order to anticipate a claim, a reference must teach every element of the claim.**

Applicant respectfully submits that Lee does not disclose each and every element of applicant's claimed invention.

Further, applicant has amended independent claims 1 and 12 to more clearly distinguish over the cited references.

Claim 1 now includes requires that the brace include a closed end for placement proximate a vertical support, adds a new limitation of a support-contacting member which is rigidly affixed to the closed end of the brace above the standing platform for contacting the vertical support, and specifies that the primary area of the ladder stand provided for contacting a vertical support, in an installed configuration thereof, is provided by the support-contacting member above the standing platform.

Claim 12 has been amended to specify that the frame assembly includes a pair of reinforcing rails and the brace which rests thereon.

Applicant respectfully suggests that the amendment to claims 1 and 12 overcomes the section 102 rejection, and that as amended, claims 1-9, 11-16 and 19-20 patentably distinguish over the teaching of Lee.

Therefore, applicant requests reconsideration and withdrawal of the Examiner's rejection of claims 1-9 and 11-20 as anticipated by Lee.

Section 103 issues

Also in the above-identified Office Action, the Examiner rejected claim 10 as unpatentable over Lee in light of Craig, U.S. patent 5,186,276. Claim 10 depends indirectly from claim 1 via claim 2, and therefore incorporates each and every limitation of the base claims. Applicant respectfully suggests that the above-discussed changes to claim 1 overcome the rejection of claim 10, and therefore requests reconsideration and withdrawal of such rejection.

New Claim

Applicant introduces new claim 21 by the present amendment.

New independent claim 21 is similar to original claim 1, with the added limitations that the standing platform is substantially parallel to the brace of the upper frame assembly, and the frame assembly includes both reinforcing rails and the brace which rests thereon.

Applicant respectfully suggests that new claim 21 is fully supported by the specification, as filed, and that this claim is directed to different subject matter than that contemplated by the background art.

Conclusion

Applicant respectfully suggests that no references of record, either singly or in combination, teach applicant's invention, as presently claimed, and that further, skill generally available in the art would not lead to a person of ordinary skill creating applicant's claimed invention, using the references of record.

Applicant respectfully suggests that as presently amended, all of the pending claims are believed to be allowable.

No new matter has been added by the present amendment.

For all of the above mentioned reasons, applicant requests reconsideration and withdrawal of the rejection of record, and allowance of the pending claims.

Respectfully submitted,



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